IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8228 of 1993

For Approval and Signature:

HON'BLE MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

E B LAKDAWALA

Versus

STATE BANK OF INDIA

Appearance:

1. Special Civil Application No. 8228 of 1993

MR TS NANAVATI for Petitioner

MR KB NAIK for M/S TRIVEDI & GUPTA for Respondents

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 08/12/2004

ORAL JUDGEMENT

Heard the learned advocates.

The petitioner, a retired employee of the State Bank of India [hereinafter referred to as, "the Bank"] challenges the punishment of 'censure' imposed upon him by order dated 13th November, 1990. The petitioner also challenges communication dated 4th November, 1991 and 20th February, 1992. By communication dated 22nd March, 1993, the petitioner had been informed that his representation dated 20th February, 1992 could not be considered as the orders of penalty were made at the relevant time in accordance with the rules, after following the due procedure, and that the petitioner had not approached the appropriate authority within the prescribed time. By communication dated 4th November, 1991, the petitioner had been informed that the sealed cover with respect to the promotion of the petitioner to Middle Management Grade Scale-III with effect from 1st August, 1986 and 1st August, 1987 was, in view of the punishment of censure imposed upon him, not required to be opened. The petitioner had also been informed that he was not found fit for promotion as on 1st August, 1988, 1st August, 1989 and 1st August, 1990.

Learned advocate Mr.Nanavati has challenged the order of punishment of censure on the ground that the report of the inquiry officer submitted on 4th October, 1990 was not furnished to the petitioner, thereby, the petitioner was deprived of a fair opportunity of defence. In view of the judgment of the Hon'ble Supreme Court in the matter of Union of India & Ors. vs. Mohd. Ramzan Khan [AIR 1991 SC 471] wherein it is held that, "... the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter," the said ground of challenge is not available to the petitioner. There is no other challenge to the said order of punishment of censure.

Learned advocate Mr. Nanavati has vehemently argued that in the year 1986 or 1987, no disciplinary proceeding was pending against the petitioner nor was such disciplinary proceeding under contemplation. The action of the Bank in placing the decision of the selection committee in sealed cover was, therefore, vitiated. I see no substance in this contention. As stated in the counter affidavit, the petitioner's case for promotion as on 1st August, 1986 and 1st August, 1987 was considered by the selection committee on 5th April,

1989. In view of the pending inquiry, the decision was placed in sealed cover. In any view of the matter, since his case was considered by the selection committee on 5th April, 1989, the petitioner had been visited with punishment as aforesaid; the petitioner has, on reaching the age of superannuation, retired from service in the year 1991; as recorded hereinabove, the petitioner was not found suitable for promotion in the subsequent years i.e. as on 1st August, 1988; 1st August, 1989 and 1st August, 1990. Hence, the decision of the selection committee with respect to the petitioner's promotion as on 1st August, 1986 and 1st August, 1987 was of no consequence. The petitioner's claim to open the said sealed cover and to implement the decision of the selection committee is not tenable.

No other contention is raised before me. The petition is dismissed. Rule is discharged.

{Miss R.M Doshit, J.}

Prakash*